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सं० 8] नई दिल्ली, मार्च 16—मार्च 22, 2008, शनिवार/फाल्गुन 26, 1929, चैत्र 2, 1930  
No. 8] NEW DELHI, MARCH 16—MARCH 22, 2008, SATURDAY/PHALGUNA 26, 1929, CHAITRA 2, 1930

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह पृथक संकलन के रूप में रखा जा सके  
Separate Paging is given to this Part in order that it may be filed as a separate compilation

भाग II—खण्ड 3—उप-खण्ड (iii)  
PART II—Section 3—Sub-section (iii)

केन्द्रीय अधिकारियों (संघ राज्य क्षेत्र प्रशासनों को छोड़कर) द्वारा जारी किए आदेश और अधिसूचनाएं  
Orders and Notifications issued by Central Authorities (other than the Administrations of Union Territories)

भारत निर्वाचन आयोग

आदेश

नई दिल्ली, 7 फरवरी, 2008

आ. अ. 22.—यतः, निर्वाचन आयोग का समाधान हो गया है कि उत्तराखण्ड राज्य से लोक सभा के लिए उप-निर्वाचन 2007 में 1—टिहरी गढ़वाल लोक सभा निर्वाचन क्षेत्र से निर्वाचन लड़ने वाले अभ्यर्थी, श्री अली हसन, कुम्हारबस्ती (गली), अजबपुरकलां, देहरादून, उत्तराखण्ड लोक प्रतिनिधित्व अधिनियम, 1951 तथा तद्द्वारा बनाए गए नियमों के अधीन अपने निर्वाचन व्ययों का लेखा विधि द्वारा अपेक्षित रीति से दाखिल करने में असफल रहे हैं;

और, जबकि अभ्यर्थी श्री अली हसन ने सम्यक् सूचना दिए जाने पर भी उक्त असफलता के लिए कोई कारण अथवा स्पष्टीकरण नहीं दिया है और निर्वाचन आयोग का यह समाधान हो गया है कि उनके पास उक्त असफलता के लिए कोई पर्याप्त कारण या न्यायौचित्य नहीं है;

अतः अब, निर्वाचन आयोग एतद्वारा उक्त अधिनियम की धारा 10-क के अनुसरण में श्री अली हसन को संसद के किसी भी सदन के या किसी राज्य की विधान सभा अथवा विधान परिषद् के सदस्य चुने जाने और होने के लिए इस आदेश की तारीख से तीन वर्ष की कालावधि के लिए निरर्हित घोषित करता है।

[सं. 76/उत्तरा.-लो.स./2007 (उप)]

आदेश से,  
बर्नार्ड जॉन, सचिव

## ELECTION COMMISSION OF INDIA

## ORDER

New Delhi, the 7th February, 2008

O.N. 22.—Whereas, the Election Commission is satisfied that Shri Ali Hussan, Kumhar Basti (Gali), Ajabpurkala, Dehradun, Uttarakhand, a contesting candidate for the Bye Election to the House of the People, 2007 from 1-Tehri Garhwal Parliamentary Constituency in the State of Uttarakhand has failed to lodge any account of his election expenses in the manner required by law as required by the Representation of the People Act, 1951 and Rules and Order made thereunder; and

Whereas Shri Ali Hussan has not furnished any reason or explanation for the said failure even after due notice and the Election Commission is thus satisfied that he has no good reason or justification for the said failure;

Now, therefore, in pursuance of Section 10-A of the Representation of the People Act, 1951, the Election Commission hereby declares the said Shri Ali Hussan to be disqualified for being chosen as, and for being, a member of either House of the Parliament or of the Legislative Assembly or Legislative Council of a State for a period of three years from the date of this Order.

[No. 76/UKH-HP/2007 (Bye)]

By Order,  
BERNARD JOHN, Secy.

## आदेश

नई दिल्ली, 7 फरवरी, 2008

आ. अ. 23.—यतः, निर्वाचन आयोग का समाधान हो गया है कि उत्तराखण्ड राज्य से विधान सभा के लिए सामान्य निर्वाचन 2007 में 15-राजपुर विधान सभा निर्वाचन क्षेत्र से निर्वाचन लड़ने वाले अभ्यर्थी, श्री यशवन्त, 12 आर. के. पुरम लोअर अधोईवाला, देहरादून, उत्तराखण्ड लोक प्रतिनिधित्व अधिनियम, 1951 तथा तद्वीन बनाए गए नियमों के अधीन अपने निर्वाचन व्ययों का लेखा दाखिल करने में असफल रहे हैं;

और, जबकि अभ्यर्थी श्री यशवन्त ने सम्यक् सूचना दिए जाने पर भी उक्त असफलता के लिए कोई कारण अथवा स्पष्टीकरण नहीं दिया है और निर्वाचन आयोग का यह समाधान हो गया है कि उनके पास उक्त असफलता के लिए कोई पर्याप्त कारण या न्यायौचित्य नहीं है;

अतः अब, निर्वाचन आयोग एतद्वारा उक्त अधिनियम की धारा 10-क के अनुसरण में श्री यशवन्त को संसद के किसी भी सदन के या किसी राज्य की विधान सभा अथवा विधान परिषद् के सदस्य चुने जाने और होने के लिए इस आदेश की तारीख से तीन वर्ष की कालावधि के लिए निरहित घोषित करता है।

[सं. 76/उत्तर-वि.स./2007]

आदेश से,  
बर्नार्ड जॉन, सचिव

## ORDER

New Delhi, the 7th February, 2008

O.N. 23.—Whereas, the Election Commission is satisfied that Shri Yashwant, 12 R. K. Puram, Lower Adhoiwala, Dehradun, Uttarakhand, a contesting candidate for the General Election to the Legislative Assembly, 2007 from 15-Rajpur Assembly Constituency in the State of Uttarakhand has failed to lodge any account of his election expenses as required by the Representation of the People Act, 1951 and the Rules and Order made thereunder; and

Whereas Shri Yashwant has not furnished any reason or explanation for the said failure even after due notice and the Election Commission is thus satisfied that he has no good reason or justification of the said failure;

Now, therefore, in pursuance of Section 10-A of the Representation of the People Act, 1951, the Election Commission hereby declares the said Shri Yashwant to be disqualified for being chosen as, and for being, a member of either House of the Parliament or of the Legislative Assembly or Legislative Council of State for a period of three years from the date of this Order.

[No. 76/UKH-LA/2007]

By Order,  
BERNARD JOHN, Secy.

## आदेश

नई दिल्ली, 7 मार्च, 2008

आ. अ. 24.—यतः, निर्वाचन आयोग का समाधान हो गया है कि नीचे की सारणी के स्तंभ (1) में यथा विनिर्दिष्ट उड़ीसा राज्य की विधान सभा के उप-निर्वाचन के लिए जो स्तम्भ (2) में विनिर्दिष्ट निर्वाचन क्षेत्र से हुआ है, स्तंभ (3) में उसके सामने विनिर्दिष्ट निर्वाचन लड़ने वाला प्रत्येक अभ्यर्थी, लोक प्रतिनिधित्व अधिनियम, 1951 तथा तद्वीन बनाए गए नियमों द्वारा अपेक्षित उक्त सारणी के स्तंभ(4) में यथा दर्शित अपने निर्वाचन व्ययों का लेखा समय के अन्तर्गत दाखिल करने में असफल रहा है;

और, यतः उक्त अभ्यर्थियों को सम्यक् सूचना दिए जाने पर भी उक्त असफलता के लिए या तो कोई कारण अथवा स्पष्टीकरण नहीं दिया है या उनके द्वारा दिए गए अभ्यावेदनों पर, यदि कोई हो, विचार करने के पश्चात् निर्वाचन आयोग का यह समाधान हो गया है कि उनके पास उक्त असफलता के लिए कोई पर्याप्त कारण या न्यायोचित्य नहीं है :

अतः अब, निर्वाचन आयोग उक्त अधिनियम की धारा 10-क के अनुसरण में नीचे की सारणी के स्तंभ (3) में विनिर्दिष्ट व्यक्तियों को संसद के किसी भी सदन के या किसी राज्य/संघ राज्य-क्षेत्र की विधानसभा अथवा विधान परिषद् के सदस्य चुने जाने और सदस्य होने के लिए, इस आदेश की तारीख से तीन वर्ष की कालावधि के लिए निरहित घोषित करता है :-

## सारणी

निर्वाचन का विवरण	विधानसभा निर्वाचन क्षेत्र की संख्या व नाम	निर्वाचन लड़ने वाले अभ्यर्थी का नाम व पता	निरहता के कारण
1	2	3	4
उड़ीसा राज्य से विधान सभा के लिए उप-निर्वाचन 2006	136-तलसारा अ.ज.जा.	बीरवल टोप्पो स्थान/पो.आ.-रामपुर, थाना-तलसारा, जिला-सुन्दरगढ़ । अगापित सोरेंग, स्थान/पो. आ.-किरालागा, थाना-तलसारा, जिला-सुन्दरगढ़ । नबीन बाडेक, स्थान-तनगरजोर, पो. आ.-देवभुवनपुर थाना-किनिजरकेला, जिला-सुन्दरगढ़ सन्तोष कुमार प्रधान, स्थान पो. आ. सगबहल, थाना-तलसारा, जिला-सुन्दरगढ़	निर्वाचन व्ययों का कोई लेखा दाखिल करने में असफल रहे।

[सं. उड़ीसा-वि.स./136/2006 (उप)]

आदेश से

आर. के. श्रीवास्तव, सचिव

## ORDER

New Delhi, the 7th March, 2008

O.N. 24.—Whereas the Election Commission is satisfied that each of the contesting candidate specified in column (3) of the Table below at the Bye Election to the Legislative Assembly, 2006 from the State of Orissa as specified in column (1) held from the constituency specified in column (2) against his/her name has failed to lodge any account of his/her election expenses as required by the Representation of the People Act, 1951 and the rules made thereunder as shown in column (4) of the said Table;

And Whereas, the said candidates have either not furnished any reason or explanation for the said failure even after due notice or the Election Commission, after considering the representation made by them, if any, is satisfied that they have no good reason or justification for the said failure.

Now, therefore, in pursuance of Section 10-A of the said Act, the Election Commission hereby declares the persons specified in column (3) of the Table below to be disqualified for being chosen as, and for being, a member of either

House of the Parliament or of the Legislative Assembly or Legislative Council of a State/Union Territory for a period of three years from the date of this order :

TABLE

Particulars of Election	Number & Name of the Constituency	Name & Address of the candidate	Reason of disqualification
1	2	3	4
Bye-Election to the Legislative Assembly, 2006 from the State of Orissa	136- Talsara (ST)	Birbal Toppo At/P.O.-Rampur, P.S.-Talsara, Distt.- Sundargarh  Agapit Soreng At/P.O.-Kiralaga, P.S.-Talsara, Dist.-Sundargarh. Nabin Badek At Tangarjore, P.O.-Deobhubanpur, P.S.-Kinjirkela, Dist.-Sundargarh. Santosh Kumar Pradhan At/P.O. -Sagbahal, P.S.-Talsara, Dist.-Sundargarh.	Failure to lodge any account of election expenses

[No. OR-LA/136/2006 (Bye)]

By Order,

R. K. SRIVASTAVA, Secy.

नई दिल्ली, 13 मार्च, 2008

अ. अ. 25.—लोक प्रतिनिधित्व अधिनियम, 1950 (1950 का 43) की धारा 13-क की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए और इस संबंध में आयोग की पिछली अधिसूचना तारीख 26-2-2008 के अधिक्रमण में, भारत निर्वाचन आयोग कर्नाटक सरकार के परामर्श से एतद्द्वारा श्री एम. एन. विद्याशंकर, आइ. ए. एस. (आर. आर. 1982), को कर्नाटक राज्य के मुख्य निर्वाचन अधिकारी के रूप में उस तारीख से आगामी आदेशों तक के लिए नामित करता है जिस तारीख से श्री आर. रामसेशन, आई. ए. एस. वर्तमान पदाधिकारी स्वैच्छिक सेवानिवृत्ति पर जाएंगे ऐसे समय तक श्री विद्याशंकर जो मुख्य निर्वाचन अधिकारी के रूप में कार्यभार ग्रहण करेंगे, निर्वाचन विभाग में, तत्काल, एक विशेष कार्य अधिकारी के रूप में रिपोर्ट करेंगे, जबकि वह अपने वर्तमान तैनाती स्थान से अपने वेतन का आहरण, काम चलाउ व्यवस्था के रूप में जारी रखेंगे।

2. श्री विद्याशंकर कर्नाटक सरकार के अधीन सभी पदभार या किसी कार्य के पदभारों को तत्काल सौंप देंगे या धारण करना समाप्त कर देंगे, सिवाय सूचना तकनीकी विभाग के जो कि वे निर्वाचन विभाग में विशेष कार्य अधिकारी के रूप में ऐसा पदभार ग्रहण करने से पहले धारण कर रहे थे।

3. श्री विद्याशंकर, मुख्य निर्वाचन अधिकारी, कर्नाटक के रूप में कार्य करते हुए कर्नाटक सरकार के अधीन किसी भी प्रकार का कोई अतिरिक्त कार्यभार ग्रहण नहीं करेंगे सिवाय इसके कि उनको राज्य सचिवालय में निर्वाचन विभाग का प्रभारी, सरकार का सचिव पदाभिहित किया जायेगा।

[सं. 154/के टी/2008-का प्रशासन]

आदेश से,

एस. आर. कार, अवर सचिव

New Delhi, the 13th March, 2008

O.N. 25.—In exercise of the powers conferred by sub-section (1) of Section 13-A of the Representation of the People Act, 1950 (43 of 1950) and in supersession of the Commission's earlier Notification dated 26-2-2008 in this behalf, the Election Commission of India in consultation with the Government of Karnataka, hereby nominates Shri M. N. Vidyashankar, IAS (RR : 1982) as the Chief Electoral Officer for the State of Karnataka with effect from the date Shri R. Ramaseshan, IAS, the present incumbent, proceeds on voluntary retirement, until further orders. Till such time as he takes over as the Chief Electoral Officer, Shri Vidyashankar will report as Officer on Special Duty in the Election Department, immediately, while continuing to draw his pay from his present place of posting as a stop-gap arrangement.

2. Shri Vidyashankar shall cease to hold, and hand over, forthwith the charge of all or any charges of work under the Government of Karnataka, except Information Technology Department which he may be holding before such assumption of office as Officer on Special Duty in the Election Department.

Shri Vidyashankar while functioning as the Chief Electoral Officer, Karnataka shall not hold any additional charge whatsoever under the Government of Karnataka except that he should be designated Secretary to the Government in charge of Election Department in the State Secretariat.

[No. 154/KT/2008-P. Admn.]

S. R. KAR, Under Secy.

नई दिल्ली, 13 मार्च, 2008

आ. अ. 26.—लोक प्रतिनिधित्व अधिनियम, 1951 की धारा 106 के अनुसरण में निर्वाचन आयोग 2002 की निर्वाचन अर्जी संख्या 02 में जम्मू स्थित जम्मू व कश्मीर उच्च न्यायालय के तारीख 20 नवम्बर, 2006 के निर्णय को एतद्वारा प्रकाशित करता है।

(निर्णय इस अधिसूचना के अंग्रेजी भाग में छपा है)।

[सं. 82/ज. व क.-लो.स./ (02/02)/2007]

आदेश से,

के. अजय कुमार, सचिव

New Delhi, the 13th March, 2008

O.N. 26.—In pursuance of Section 106 of the Representation of People Act, 1951, the Election Commission hereby publishes judgement dated 29th November, 2006 of the High Court of Jammu and Kashmir at Jammu in Election No. 02 of 2002.

# HIGH COURT OF JAMMU AND KASHMIR AT JAMMU

Case No. Election Petition 2/02.

Date of decision : 29-11-2006

Prof. Bhim Singh Vs Choudhary Talib Hussain and others

Coram :

HON'BLE MR. JUSTICE Y. P. NARGOTRA

Appearing counsel :

For Petitioner(s)/appellants :

Mr. B B Kotwal, Advocate

For the respondents :

Nemo for the respondents:

(i) Whether to be reported in Press/Journal/Media : Yes

(ii) Whether to be reported in Digest/Journal : Yes

The Seat of Shri Vishno Dutt, in the House of People Elected from 6-Jammu Parliamentary Constituency in the State of Jammu and Kashmir became vacant on 27-11-2001 by reason of his death. Therefore, for holding bye-election in the said seat, the Election Commission of India on 16-1-2002 issued Notification No. 100/J&K-HP/I/2001 in exercise of the powers vested in it under sub-section (1) of Section 149 and Section 30 and 56 of the Representation of the People Act 1951 for calling upon the electorates of 6- Jammu Parliamentary Constituency to elect a person, for the purposes of filling the said vacancy in the House of People. By the same Notification the Commission fixed 23rd January, 2002 as the last date for making nominations; 24th January, 2002 as the date of scrutiny of nominations; 28th January, 2002 as the last date for the withdrawal of candidatures; 21st of February, 2002 as the date for conducting the poll, if necessary. The whole election process was directed to be completed before 28th February, 2002. In case of poll hours for the same were fixed from 8 AM to 5 PM. In response to the said Notification, the petitioner Prof Bhim Singh filed his nomination papers as a candidate of J&K National Panthers Party, besides the other candidates including respondent No. 1 Ch. Talib Hussain, who filed his candidature as a candidate of National Conference Party. On the scrutiny of the nomination papers being held on 24-1-2002, 16 candidates in all were found qualified for the said election. After the completion of the election process, respondent No. 1 Ch. Talib Hussain was declared elected by the Returning Officer on 27-2-2002.

The petitioner Prof. Bhim Singh has called in question the election of respondent No. 1 Ch. Talib Hussain, through the medium of this election petition on two grounds, namely, (i) that respondent No. 1 resorted to Corrupt Practices and (ii) that the election process was vitiated because of the violation of the Rules Governing the conduct of elections. He has alleged in the petition that respondent No. 1 Ch. Talib Hussain being a candidate of ruling-party used all Government Machinery for the purposes of election with the connivance, knowledge and consent of then State Chief Minister during

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the election campaign and attracted the voters for casting Votes by promising them the Government jobs in the State and the Centre. The State Chief Minister being the head of ruling National Conference distributed Sewing Machines and Rs. 1,100 to each of the so called destitute women at R. S. Pura, Suchetgarh and Bishnah Assembly Segments. The then Chief Minister Dr. Farooq Abdullah declared publically for opening of 1st Medical College in village Suchetgarh and a Public Health Centre at Pargwal while campaigning for respondent No. 1 Ch. Talib Hussain. It has also been submitted that during the election campaign several daily wagers were appointed in different departments of the State with the connivance of respondent No. 1. Even the Deputy Commissioners of Poonch, Rajouri and Jammu at the behest of the Ministers of the State extended promises to the people of weaker sections of the Society that they shall be allotted sites for houses and will be granted old-age pensions, if they voted for respondent No. 1. During the campaigning the then Chief Minister Dr. Farooq Abdullah used Government Helicopter for election propaganda with respondent No.1. This apart, it has also been alleged that Rules 20 and 21 of the Conduct of Election Rules, framed by the Election Commission of India were also violated. It has also been stated in the petition by the petitioner that from the distribution of votes among the candidates in Mendhar, Rajouri and Surankote, it is apparent that abnormally large number of votes were shown to have been polled in favour of respondent No. 1, whereas the other candidates received only negligible number of votes, which is indicative of the fact that there was prima-facie evidence of irregularity during poll and despite that those votes were not cancelled by following Rules 21 & 22 of the said Rules. The petitioner has also alleged that bye-election was held on 21-2-2002 on the basis of electoral rolls prepared in the year, 1988 and since 1988 there has been no revision of the said rolls. Thus, the persons who had already died continued to be shown as voters, whereas the living voters were denied the right of franchise. The Chief Election Commissioner in connivance with the State administration in order to give benefit to respondent No.1 with ulterior motive prepared the electoral rolls. A representation was made to the Chief Election Commission of India in this behalf, but that was not given any consideration. It has also been stated by the petitioner that Rule 28 made it mandatory to provide Identity Cards for Electors of Jammu and Kashmir which had not been provided so they remained victim of fraud and electoral manipulation ever since election process started in the State. The Government of Jammu and Kashmir had declared 347 polling stations in a constituency as sensitive on the eve of the election day, without even providing the list of the names of such polling stations which caused a terror among the polling agents of the opposition parties including Panthers Party, who were not provided any protection by the State, and therefore, respondent No. 1 being a candidate of National Conference rigged absolute polls in these unknown 347 Polling Stations in Rajouri and Poonch Districts. Petitioner has further alleged that there were several polling stations which were shifted on the day of election in connivance with the Chief Electoral Officer. The polling stations of the displaced persons of Planwala, Pargwal etc. were put up hundred miles away where no voter could reach, yet the polling was shown above 80% polling.

On the above allegations, as per the case of the petitioner the conduct of said Parliamentary Bye-Election was totally illegal, fraudulent, faulty and violative of the provisions of the Representation of Peoples Act as well as the Registration of Electors Rules, 1960 and the mandatory guidelines issued from time to time by the Election Commission of India and therefore, election of respondent No.1 Ch. Talib Hussain was illegal and void.

After filing of the election petition, the respondents, namely, Ch. Talib Hussain respondent No. 1, Chief Election Commission of India, respondent No.2 and the Returning Officer, respondent No.3 were put on notice. However, by order dated 7-6-2003, the name of Chief Election Commission of India, respondent No.2 was deleted from the array of the respondents.

Despite service, the written statement was not filed by the respondents. By order dated 16-11-2004 time was extended by four weeks, subject to payment of costs of Rs 1,000 for filing written statement, but still the same was not filed either by respondent No.1 Ch. Talib Hussain or by the Returning Officer, respondent No.3. By order dated 13-10-2005 last opportunity was granted. Still neither the costs were paid nor the written statement was filed. Therefore, by order dated 31-3-2006 right of the respondents to file the written statements was closed. Petitioner Prof. Bhim Singh was called upon to lead evidence in support of the petition. It was also ordered that in case he needed the assistance of the Court for summoning his witnesses, he would furnish list of the witnesses and deposit the diet expenses of the witnesses within a period of two weeks failing which he was directed to produce all the witnesses on his own on the next date of hearing.

Despite the aforesaid opportunity the petitioner neither filed any list of the witnesses nor produced them on his own on the date fixed. However, Mr. B.B. Kotwal, learned counsel for the petitioner sought further time for filing the list of witnesses and depositing their diet expenses. By order dated 31-3-2006 the prayer made was disallowed and the evidence of the petitioner except his own statement was closed. The petitioner was directed to be produced on the next date of hearing for making his statement as his own witness. However, on 19-4-2006, the next date fixed for hearing, learned counsel for the petitioner made a statement that he did not want to lead evidence in support of the election petition, but submitted that he wanted only to make submissions on the issues raised which did not require any proof by leading evidence. In view of the statement made, the evidence of the petitioner was closed and the case after being adjourned was taken up for final hearing on 21-11-2006.

It may be pointed out here that during the course of hearing of this petition even the counsel for respondent No. 1 and respondent No. 3 have not been appearing to contest the petition and even on the date when the case was taken up for final hearing, there was no representation for them, so in the absence of the counsel for the respondents, the learned counsel for the petitioner was heard.

The contention of Mr. B. B. Kotwal, learned counsel for the petitioner is that the allegations made in the election petition should be deemed to have been admitted by the respondents as they have not controverted the same by filing written statements. He submits that the facts alleged in the petition clearly demonstrated the corrupt practices resorted to by respondent No. 1 during the election as well as violation of the election rules by the concerned authorities. He relies upon cases *Balwan Singh Vs. Prakash Chand and others* (AIR 1976 SC 1187) and *S. Raghbir Singh Vs. Gurcharan Singh* (AIR 1980 SC 1362).

Section 95 of the Representation of the People Act provides for the procedure to be adopted by the High Court for trial of an election petition. It provides as follows :

“Section 95: Procedure before the High Court:

- (1) Subject to the provisions of this Act and any Rules made thereunder, every election petition shall be tried by the High Court, as nearly as may be, in accordance with the provisions applicable under the Code of Civil Procedure, Samvat 1977 to the trial of suits :

Provided that the High Court shall have the discretion to refuse for reasons to be recorded in writing, to examine any witness or witnesses if it is of the opinion that the evidence of such witness or witnesses if it is of the opinion that the evidence of such witness or witnesses is not material for the decision of the petition or that the party tendering such witness or witnesses is doing so on frivolous grounds or with a view to delay the proceedings;

- (2) The provisions of the Evidence Act, Samvat 1977, shall subject to the provisions of this Act, be deemed to apply in all respects to the trial of an election petition.

From the bare reading of Section 95, it is manifest that an election petition is to be tried like a Civil Suit in accordance with those provisions of the Code of Civil Procedure applicable for the trial of the suits, which are not inconsistent with the provisions of the Act or the Rules framed thereunder. It is also a settled principle of law that the allegations of corrupt practices are to be deemed as charges of quasi-criminal character. In order to succeed the election petitioner must plead all material particulars thereof and prove them by cogent and clear-evidence beyond any shadow of reasonable doubt. (Refer *D. Venkata Reddy Vs. R. Sultan and others*, AIR 1976 SC 1599 and AIR 1990 SC 924).

In the present case the petitioner though has made serious allegations of corrupt practices against respondent No.1, but has not led any evidence to prove those allegations even remotely. What to talk of evidence of necessary witnesses, even the petitioner himself has not chosen to appear in the witness box for proving his charges levelled against respondent No.1 nor he has tendered any evidence to prove the basic facts showing that respondent No. 1 resorted to corrupt practices or that the election process was vitiated because of the violation of the Rules governing the conduct of elections. Therefore, the contention of the learned counsel for the petitioner that simply because the respondents have not controverted the allegations made in the petition, the allegations made are to be deemed to have been admitted, is without any merit. Like a criminal case, in an election petition the onus of proving the allegations of corrupt practices stated in the election petition always lies heavily upon the election petitioner. Therefore, without the proof of the allegations made it cannot be held that respondent No. 1 has resorted to the corrupt practices during the election campaign.

The reliance placed by the learned counsel for the petitioner upon the cases AIR 1976 SC 187 and AIR 1980 SC 1362, is misplaced and have no application to the facts and circumstances of the case.

For the reasons stated above, no merit is found in the election petition of the petitioner. It is as such dismissed. There shall be no order as to costs.

Sd/

Hon'ble Judge

[No. 82/J&K-HP (02/02)/07]

By Order,

K. AJAYA KUMAR, Secy.

JAMMU

November 29, 2006